

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Mark McCoy,)	
)	
Petitioner,)	C.A. No. 4:16-0638-HMH-TER
)	
vs.)	OPINION & ORDER
)	
Warden Cartledge,)	
)	
Respondent.)	

This matter is before the court on Mark McCoy’s (“McCoy”) pro se subsequent and second response to the Defendant’s motion for summary judgment pursuant, which the court construes as a motion for relief from judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. For the reasons that follow below, the court denies McCoy’s motion.

The court previously summarily dismissed McCoy’s § 2255 motion in an order dated December 15, 2016. (Dec. 15, 2016 Order, ECF No. 42.) On December 29, 2016,¹ McCoy filed the instant motion. Rule 60(b) “invest[s] federal courts with the power in certain restricted circumstances to vacate judgments whenever such action is appropriate to accomplish justice.” Compton v. Alton S.S. Co., 608 F.2d 96, 101-02 (4th Cir. 1979) (internal quotation marks omitted). “The remedy provided by the Rule, however, is extraordinary and is only to be invoked upon a showing of exceptional circumstances.” Id. at 102. Upon review, McCoy merely restates the grounds from his petition and his objections to the Report and Recommendation. Based on the foregoing, the court finds that McCoy has made no showing of exceptional circumstances or defects in the court’s decision.

¹See Houston v. Lack, 487 U.S. 266 (1988).

It is therefore

ORDERED that McCoy's motion for relief from judgment, docket number 45, is denied.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
January 4, 2017

NOTICE OF RIGHT TO APPEAL

The Movant is hereby notified that he has the right to appeal this order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.